

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

SUSIE ZAPATA and MONICA
GARCIA,

Plaintiffs,

vs.

Case No.
1:21-cv-00083-MV-JFR

LEON MARTINEZ, ROBERTA
LUCERO-ORTEGA, ARTHUR
SANCHEZ, BERLEEN ESTEVAN,
and SUMMIT FOOD SERVICE,
LLC,

Defendants.

_____ /

VIDEOTAPED ZOOM DEPOSITION OF ROBERTA LUCERO-ORTEGA

Monday, March 21, 2022

Albuquerque, New Mexico

PURSUANT TO THE NEW MEXICO RULES OF CIVIL
PROCEDURE, this deposition was:

TAKEN BY: STEVEN ROBERT ALLEN
ATTORNEYS FOR PLAINTIFFS

REPORTED BY: TERI WARD, RPR, CCR #549
PAUL BACA COURT REPORTERS
500 4th Street, Suite 105
Albuquerque, New Mexico 87102

Exhibit D

Page 6

1 Q. Was it at Western?
 2 A. Yes.
 3 Q. The allegations? Okay.
 4 And were you being deposed as the warden
 5 there?
 6 A. Yes.
 7 Q. Okay. Sounds good. Well, then you're
 8 somewhat familiar with this. But just to go over
 9 the basic ground rules. We're trying to get a clear
 10 transcript to make Teri's job as easy as possible.
 11 So in ordinary conversation it's normal
 12 for us to kind of talk -- start talking over each
 13 other. You know, that's -- it's not necessarily
 14 rude in ordinary conversation.
 15 In this environment, we -- you know,
 16 it's good to have a little bit of a pause. Make
 17 sure I have a chance to fully ask my question. I'll
 18 make sure you have a chance to fully answer the
 19 questions just so we have the clearest possible
 20 transcript.
 21 Make sense?
 22 A. Yes.
 23 Q. And then, you know, similarly, with yes
 24 or no questions, it's typical in ordinary
 25 conversation to nod our head or shake. Obviously,

Page 7

1 that's not going to work here. We might do it just
 2 because we forget, but we -- if there's a yes or no
 3 question, we need, sort of, a clear yes or a clear
 4 no response.
 5 Does that make sense?
 6 A. Yes.
 7 Q. Okay. I expect your attorney to object
 8 periodically to my questions. She'll want to get
 9 that registered in the record. I -- unless she
 10 specifically directs you to not answer a question
 11 after she objects, you should go ahead and answer
 12 the question.
 13 Does that make sense?
 14 A. Yes.
 15 Q. Okay. Did I forget anything else?
 16 We'll take breaks periodically. If you need a
 17 break, just let me know and we'll fit that in there.
 18 If I've already asked a question, if
 19 there's a question on the table, in other words,
 20 you'll need to answer that question and then we'll
 21 take the break.
 22 Sound good?
 23 A. Yes.
 24 Q. What else? What materials did you
 25 review in preparation for this deposition?

Page 8

1 A. I reviewed the interrogatories, various
 2 reports, like the environmental report, several
 3 e-mails, corrective action plans, our food service
 4 contract. Oh, what else? Looks like some work
 5 orders, and there's the NMCD policy.
 6 Q. Okay.
 7 A. I think I may have gotten everything.
 8 Q. Okay. That sounds good. And were you
 9 able to print out the exhibits that I gave your
 10 attorney? The ones -- they should be marked with a
 11 yellow stamp numbered 1 through 7.
 12 A. I was able to print out a few of them.
 13 We're having -- we were having some difficulties
 14 with our printer at the jail because of ransomware.
 15 So I only got a few of those interrogatories.
 16 Q. All right.
 17 A. I'm sorry, exhibits. I was able to
 18 print out Exhibits 1, 5, and 3.
 19 Q. 1, 5, and 3. Okay. I think what I'm
 20 going to do, then -- I'm not sure what the size of
 21 your monitor is at the jail there, but I'll probably
 22 share my screen as I bring up those exhibits and
 23 then go through them if I'm -- when I'm referring to
 24 them.
 25 A. Sure.

Page 9

1 Q. So you should be able to see them on
 2 your screen as long as we don't have any technical
 3 snafus, which almost have to expect at this point.
 4 Good. That sounds great. Let's see.
 5 Let's just jump in, then. Tell me, so you're
 6 working at the -- MDC now, I understand.
 7 A. That's correct.
 8 Q. And what's your position there?
 9 A. I'm the Director of Policy and
 10 Compliance.
 11 Q. And how long have you held that
 12 position?
 13 A. Since February of 2020.
 14 Q. 2020. Okay. And when did you leave
 15 your position as warden at Western?
 16 A. Physically, my last day was October 30th
 17 of 2018. I was on leave for surgery and then
 18 retired December 31st of 2018.
 19 Q. Okay. So near the end of 2018. And
 20 tell me, just to fill out your resume, what's -- did
 21 you have a position at MDC after that or where were
 22 you employed after you left Western?
 23 A. I was -- I contracted out with -- with
 24 MDC as their medical compliance contract monitor.
 25 Q. That's right. Okay. Sounds good. So

3 (Pages 6 to 9)

<p style="text-align: right;">Page 10</p> <p>1 tell me when you got your start in corrections.</p> <p>2 A. Oh, gosh, it was in '92.</p> <p>3 Q. Oh, yeah. That's --</p> <p>4 A. October -- October of '92.</p> <p>5 Q. And was that here in New Mexico?</p> <p>6 A. Yes.</p> <p>7 Q. Was it for the corrections department?</p> <p>8 A. Yes, it was.</p> <p>9 Q. Okay. And how did you -- how did you</p> <p>10 get your start?</p> <p>11 A. I start -- I graduated from the</p> <p>12 University New Mexico and then started as a</p> <p>13 classification case manager at Central in Los Lunas.</p> <p>14 Q. Interesting. How long did you work as a</p> <p>15 case manager?</p> <p>16 MS. MOULTON: I'm going to object to</p> <p>17 this, Steven, as much as all of this information is</p> <p>18 excruciatingly outlined in her answers to</p> <p>19 interrogatories and requests for production. So if</p> <p>20 you want to go over that -- those particular ones,</p> <p>21 but maybe we should reference that then in that</p> <p>22 case.</p> <p>23 MR. ALLEN: Yeah. I am a little bit</p> <p>24 interested about her early -- her early history in</p> <p>25 the corrections department, so if it's okay with</p>	<p style="text-align: right;">Page 12</p> <p>1 longest.</p> <p>2 Q. I see. Okay. And remind me -- I know</p> <p>3 it's in your interrogatory responses -- but when did</p> <p>4 you first start working at Western?</p> <p>5 A. The first time or the second time?</p> <p>6 Q. The first time.</p> <p>7 A. The first time it was -- and I don't</p> <p>8 have my resume in front of me. It was I think 2000,</p> <p>9 2001 as a unit manager.</p> <p>10 Q. And how long was that stint at Western?</p> <p>11 A. It was about two, three years.</p> <p>12 Q. And you said you were a unit manager?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And it was the -- the men's</p> <p>15 prison back then, correct?</p> <p>16 A. That is correct.</p> <p>17 Q. Okay. And how about the second stint at</p> <p>18 Western?</p> <p>19 A. The second was January of 2016, when I</p> <p>20 was promoted as warden.</p> <p>21 Q. Were you -- I thought I recalled from</p> <p>22 your interrogatory responses that you were deputy</p> <p>23 warden, but that was at CNM, I guess.</p> <p>24 A. It was at both. I had become -- when I</p> <p>25 was initially promoted as a deputy warden, I was</p>
<p style="text-align: right;">Page 11</p> <p>1 you, I'm going to proceed with these questions.</p> <p>2 MS. MOULTON: Okay.</p> <p>3 MR. ALLEN: But I do understand she did</p> <p>4 provide a lot of detail in those interrogatories,</p> <p>5 and I -- I do note that.</p> <p>6 BY MR. ALLEN:</p> <p>7 Q. Go ahead and answer, Ms. Lucero-Ortega.</p> <p>8 How long were you a case manager?</p> <p>9 A. Probably two, three years and then I</p> <p>10 became the acting classification supervisor.</p> <p>11 Q. Okay. Did you work as a CO?</p> <p>12 A. No.</p> <p>13 Q. You didn't?</p> <p>14 A. No.</p> <p>15 Q. So you've been -- after you were a case</p> <p>16 manager, you essentially had leadership positions</p> <p>17 for most of your career in -- at the corrections</p> <p>18 department?</p> <p>19 A. Yeah. I was a supervisor or manager in</p> <p>20 some capacity, yes.</p> <p>21 Q. Okay. And where was the bulk of that</p> <p>22 time spent? Was that mainly up at PNM?</p> <p>23 A. Oh, gosh, I -- I would say the first</p> <p>24 nine years of my career was at Central New Mexico</p> <p>25 Correctional Facility. That was probably the</p>	<p style="text-align: right;">Page 13</p> <p>1 transferred. You can't really select. They tell</p> <p>2 you where you want to go. But I was -- I was at PNM</p> <p>3 as a unit manager, and they transferred me as -- as</p> <p>4 part of the promotion to Central.</p> <p>5 I was at Central maybe two years when I</p> <p>6 got transferred to PNM as a deputy warden.</p> <p>7 Q. Oh, so you were deputy warden at PNM for</p> <p>8 a while. But you were -- when you were at Western</p> <p>9 the entire time, you were a warden during that</p> <p>10 second stint?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. That's right. So tell me -- so</p> <p>13 is January 2016 when you got to Western for the</p> <p>14 first time? And remind me, was it still the men's</p> <p>15 prison at that point?</p> <p>16 A. Yes, it was.</p> <p>17 Q. And when did the -- the switch happen,</p> <p>18 so --</p> <p>19 A. It was October of 2016.</p> <p>20 Q. October of 2016. Okay. Do you know why</p> <p>21 that -- that change happened?</p> <p>22 MS. MOULTON: Objection. Form.</p> <p>23 Foundation.</p> <p>24 You can answer.</p> <p>25 THE WITNESS: That would have been a</p>

Page 38

1 his like weekly inspections. That would be part of
2 coordinating the annual inspections.

3 **Q. And do you know if that was written down**
4 **somewhere, sort of a plan for pest control?**

5 A. I don't. Probably. I don't remember.
6 If it was, then the FSSO should have it or the fire
7 safety administrator at Central office should have
8 them.

9 **Q. Okay. You don't recall a written plan**
10 **yourself, though, while you were warden?**

11 A. No. I mean, I could have seen it. I
12 just -- it's been a while.

13 **Q. Sure. Makes sense. Okay. How often**
14 **did you inspect the facility, the various parts of**
15 **the facility? You answered this in your**
16 **interrogatory, but I just wanted to talk about it a**
17 **little bit more.**

18 **Like, what's -- what was your own**
19 **pattern of facility inspection as warden while you**
20 **were there?**

21 A. My own pattern? I don't know if I had a
22 pattern, but I was required to do weekly rounds
23 within the facility. That kind of encompasses a lot
24 of different things. It meant checking on
25 programming. It meant communicating and checking on

Page 39

1 my correctional staff. It meant walking through the
2 housing units. It meant communicating with inmates.
3 It meant making sure that people were where they
4 were supposed to be.

5 It meant ensuring that officers were
6 following their post orders. It meant making sure
7 that doors were secured. It meant -- it means a lot
8 of things other than just sanitation, and sanitation
9 plays a very -- I don't want to say a small part,
10 but there's a multitude of things that you're --
11 you're required to look at when you're walking
12 through a facility.

13 **Q. Yeah, that makes sense. I'm sure it's**
14 **kind of a complicated job it seems from my shoes.**
15 **Do you -- when you were making those**
16 **week rounds, did you always talk to inmates or was**
17 **it just sometimes?**

18 A. Well, I mean, inmates were free to
19 approach me. So I mean, I always talked to inmates,
20 found out about their families. They would show me
21 pictures of their kids. They would tell me what
22 they were doing. They would tell me if they got a
23 good grade in -- on the quiz that they got in
24 school. I mean, whether they were going to court or
25 how court was.

Page 40

1 **Q. So they would just proactively come up**
2 **to you while you were making your rounds and talk to**
3 **you about these things?**

4 A. Yes. I mean, that's part of doing your
5 rounds is making yourself available to both your
6 staff and the inmates.

7 **Q. That's interesting because my**
8 **recollection is that's a little bit different than**
9 **the way Mr. Martinez described it. And I'm**
10 **wondering if while he was deputy warden or Mr. Perez**
11 **was, you noticed any sort of gender difference in**
12 **how approachable the three of you were.**

13 **Like, did you feel like inmates came up**
14 **to you more often than Mr. Perez or Mr. Martinez?**

15 MS. MOULTON: Objection to form.
16 Foundation.

17 THE WITNESS: I'm not sure if I even
18 paid attention to the differences. I mean -- I
19 mean, there's personality differences, which
20 probably had a lot to do with it. But other than
21 that --

22 BY MR. ALLEN:

23 **Q. Did you feel like Mr. Martinez was**
24 **approachable when it came to conversations with**
25 **inmates?**

Page 41

1 A. I -- I don't remember.

2 **Q. You don't remember?**

3 A. Like, I don't even remember doing my
4 rounds with -- with -- I used to like to do my
5 rounds on my own. That way, you know, he -- the
6 deputy wardens are also required to do weekly
7 rounds.

8 **Q. Um-h'm.**

9 A. Honestly, I prefer them to do theirs,
10 and I do mine, that way we're hitting it twice a
11 week instead of once a week. So it would be hard
12 for me to -- to have any opinion of how Mr. Martinez
13 did his rounds.

14 **Q. Yeah, no problem. I guess, I'm just**
15 **wondering because he -- he made it sound when --**
16 **during his deposition that it was more difficult to**
17 **have kind of conversations directly with inmates.**
18 **Did you ever speak with that about him, that concern**
19 **that he had?**

20 MS. MOULTON: Objection to form.

21 THE WITNESS: Mr. Martinez never brought
22 that to my attention, no.

23 BY MR. ALLEN:

24 **Q. Okay. And Mr. Perez never expressed a**
25 **similar concern?**

11 (Pages 38 to 41)

<p style="text-align: right;">Page 50</p> <p>1 A. I wouldn't have been in the capacity. I</p> <p>2 mean, other than being the deputy warden of</p> <p>3 administration. Prior to that I was a</p> <p>4 classification officer and a classification</p> <p>5 supervisor, so I wouldn't be privy to that</p> <p>6 information.</p> <p>7 Q. Okay. Did you see any traps laid out</p> <p>8 around the facility while you were there to address</p> <p>9 the presence of rodents at Central?</p> <p>10 A. I usually see them in every facility</p> <p>11 that you go to.</p> <p>12 Q. I see. So you did see traps laid out at</p> <p>13 Central?</p> <p>14 A. At Central, at PNM, at other facilities,</p> <p>15 yes.</p> <p>16 Q. Okay. And were they -- was it</p> <p>17 essentially a similar number as you had at Western</p> <p>18 about the number of traps being used?</p> <p>19 A. I --</p> <p>20 MS. MOULTON: Objection to form and</p> <p>21 foundation.</p> <p>22 You can answer, if you know.</p> <p>23 THE WITNESS: I don't know.</p> <p>24 BY MR. ALLEN:</p> <p>25 Q. Okay. So tell me -- can you tell me a</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. But you must have said it for some</p> <p>2 reason. I mean, why did you say it was worse there?</p> <p>3 A. Well, you have -- I mean, it's a farm.</p> <p>4 You have -- you have -- there's -- the entire</p> <p>5 facility is surrounded by -- I mean, before you get</p> <p>6 into the facility, you pass -- you pass fields.</p> <p>7 There's wheat fields, there's cornfields, there's</p> <p>8 alfalfa fields. There's -- it's a farm. So, I</p> <p>9 mean, if anyone who's raised in a farm, you would</p> <p>10 know that you have issues with mice.</p> <p>11 Q. Sure. But did you see them inside the</p> <p>12 facility or like, what's -- why was it worse there?</p> <p>13 Is it just because it was a farm? There was larger</p> <p>14 numbers? Did you see more rodent feces? What was</p> <p>15 the reason you --</p> <p>16 A. I never saw any feces there. It's just</p> <p>17 that I -- we just knew and were told like if you</p> <p>18 bring food items, make sure you put them in a locked</p> <p>19 container or a plastic container. It was just</p> <p>20 something that, you know, was kind of just told to</p> <p>21 us.</p> <p>22 Q. Remind me, is there a food service</p> <p>23 specifically at the farm?</p> <p>24 A. Every facility has a kitchen, yes.</p> <p>25 Q. And -- and did you hear anything about</p>
<p style="text-align: right;">Page 51</p> <p>1 little bit more about -- my understanding is you're</p> <p>2 saying the presence of rodents was more extensive at</p> <p>3 Central while you were deputy warden there than it</p> <p>4 was at Western while you were a warden there.</p> <p>5 Like, what makes you say that?</p> <p>6 A. Actually, the presence of rodents was</p> <p>7 not more when I was deputy warden. It was more when</p> <p>8 I was -- in my earlier years in Central when I was</p> <p>9 working at the farm.</p> <p>10 Q. I see. When you were working at the</p> <p>11 farm?</p> <p>12 A. Yes.</p> <p>13 Q. I see. And tell me -- well, tell me</p> <p>14 about that, then. Why was it worse or why -- let's</p> <p>15 not say worse. But why was there the presence of</p> <p>16 rodents more extensive at the farm in -- at the Los</p> <p>17 Lunas prison than it was at Western while you were</p> <p>18 warden there?</p> <p>19 MS. MOULTON: Objection to form.</p> <p>20 Foundation.</p> <p>21 THE WITNESS: I wouldn't have -- like I</p> <p>22 said, I wasn't in the capacity in the positions that</p> <p>23 I was working at to even render any kind of</p> <p>24 explanation as to why.</p> <p>25 BY MR. ALLEN:</p>	<p style="text-align: right;">Page 53</p> <p>1 rodents in food service at the farm?</p> <p>2 A. I wouldn't have been in that capacity to</p> <p>3 do inspections on the kitchen when I was there.</p> <p>4 Q. Did inmates ever complain to you about</p> <p>5 rodents in food service at the farm?</p> <p>6 A. No.</p> <p>7 Q. Did they ever complain to you about</p> <p>8 rodents in their housing units at the farm?</p> <p>9 A. No.</p> <p>10 Q. Okay. And I -- I ask just because I'm</p> <p>11 trying to puzzle that out. But maybe I'll come back</p> <p>12 to that once we drill down a little bit about</p> <p>13 rodents at Western.</p> <p>14 Did you see rodents, the actual animals,</p> <p>15 while you were warden at Western?</p> <p>16 A. No.</p> <p>17 Q. Never?</p> <p>18 A. No.</p> <p>19 Q. Did you ever see rodent feces?</p> <p>20 A. Yes.</p> <p>21 Q. And where did you see rodent feces?</p> <p>22 A. Like in the admin areas, little areas</p> <p>23 where people would keep food.</p> <p>24 Q. Anywhere else?</p> <p>25 A. That's all I can recall at this time.</p>

Page 54

1 Q. Did you ever see rodent feces in the
2 kitchen at Western?
3 A. I personally did not, no.
4 Q. And how often did you visit the kitchen
5 at Western while you were a warden?
6 A. I went through weekly.
7 Q. You went through weekly. And never saw
8 rodent feces?
9 A. No.
10 Q. Okay.
11 A. Not during the walkthroughs.
12 Q. And how about in the chow hall at
13 Western, did you ever see rodent feces there?
14 A. No.
15 Q. How about in the housing units?
16 A. No.
17 Q. Okay. Did you hear reports about the
18 presence of rodents in and around food service at
19 Western while you were warden?
20 A. Yes.
21 Q. Tell me about that.
22 A. Reports from the safety and sanitation
23 individuals, reports from -- maybe from the deputy
24 warden who heard it from like the food service
25 manager, that type of stuff.

Page 55

1 Q. Let me just make sure I specifically
2 understand the individuals. So you heard it from
3 the two FSSOs that were in that position while you
4 were warden?
5 A. Yes.
6 Q. Okay. And you may have heard it from
7 one of your deputy wardens. Do you recall which
8 one?
9 A. I know maybe Pete Perez. I don't ever
10 recall Leon Martinez ever telling me anything.
11 Q. Okay. And what do you recall Mr. Perez
12 telling you about rodents?
13 A. We had issues with the cleanliness of
14 the kitchen, and so actually that's really where it
15 came through, which is why we would conduct weekly
16 inspections of the kitchen.
17 Q. And what were those issues with
18 cleanliness in the kitchen?
19 A. Food on the floor, them not cleaning out
20 the gas traps. Just -- just general cleanliness of
21 the kitchen.
22 Q. And when you say "them not cleaning
23 out," who are you referring to?
24 A. I'm referring to the Summit staff and
25 their employees.

Page 56

1 Q. Okay.
2 A. And then the inmates that they
3 supervised.
4 Q. Sure. That makes sense. It sound --
5 what else do you recall about your conversations
6 with Mr. Perez about rodents? Any other details
7 that you can share?
8 A. I -- I don't recall any details.
9 Q. Is there a corrective action plan that
10 you recall in terms of addressing the cleanliness in
11 the kitchen?
12 A. There was corrective action plans, I
13 think, from Summit as far as cleanliness, how they
14 stored food, dry storage, that type of stuff, yes.
15 Q. And what specific problems do you recall
16 there being with food storage by the staff at
17 Summit?
18 MS. PULLEN: Objection to form.
19 Foundation.
20 THE WITNESS: In a couple of -- or
21 weekly inspections we found where the dry storage
22 bins -- they have lids to keep pests out of the dry
23 storage. We found the storage lids to be removed or
24 the lids were cracked and damaged, and the
25 corrective action that we took is we directed Summit

Page 57

1 to replace their bins and ensure that their food was
2 properly covered.
3 BY MR. ALLEN:
4 Q. Tell me what the original bins looked
5 like that were damaged. Like, what material were
6 they made out of? What size, et cetera?
7 A. I have no idea what size. They're large
8 bins and they're plastic. Kind of like large like
9 Rubbermaid plastic bins that are used to -- like you
10 would hold large amounts of like flour and rice and
11 sugar and that kind of stuff.
12 I mean, I wouldn't know the size. They
13 would probably be the ones -- they would have been
14 the ones to order it.
15 Q. Okay. Was all -- was all of the dry
16 stored food in some kind of bin?
17 A. I think the ones they were using. I
18 don't remember if all of them were in bins or not.
19 Q. Do you ever recall dry storage food just
20 being in large bags?
21 A. Yes.
22 Q. And what do you recall about that?
23 A. There was one like freezer area,
24 refrigerator area where they would keep the bags and
25 they would kind of just stack them up in that area.

15 (Pages 54 to 57)

Page 62

1 to order them, so I'm going to say a couple of weeks
2 to a couple months. I don't know. I mean, that
3 would be something she'd have to answer because she
4 would have ordered them.

5 **Q. How many conversations do you recall**
6 **having with Ms. Estevan about who was responsible**
7 **for buying those bins? Was it more than one?**

8 A. I don't remember. I think once I
9 checked the contract and advised her of what was
10 written in the contract, there was no other
11 conversation.

12 **Q. Okay. Did you ever interact with Ms.**
13 **Estevan's supervisor, Ian Tillotson?**

14 A. Not that I can recall, no.

15 **Q. So you don't recall ever communicating**
16 **with him about the presence of rodents or this**
17 **specific issue of food storage with Mr. Tillotson?**

18 MS. PULLEN: Objection to form.

19 THE WITNESS: I -- I don't recall like
20 having a face-to-face conversation with him. If
21 there was an e-mail conversation, there may have
22 been, but off the top of my head, I don't recall
23 ever having -- I don't even think I've ever met
24 Mr. Tillotson.

25 BY MR. ALLEN:

Page 64

1 **your mind if you hadn't provided that extra**
2 **monitoring of cleanliness of the kitchen?**

3 MS. PULLEN: Objection to form.

4 Foundation.

5 MS. MOULTON: Objection to form.

6 Foundation.

7 You can go ahead and answer.

8 THE WITNESS: I would have suspected
9 that -- I mean, I did that in order to keep the
10 kitchen clean. So I guess my suspicions were that
11 they wouldn't be clean.

12 BY MR. ALLEN:

13 **Q. Was the kitchen clean with the extra**
14 **monitoring that you provided?**

15 A. It was cleaner, yes. I think she knew
16 we were watching, and she knew we were going to go
17 in.

18 **Q. Okay. Let me see. I want to go back to**
19 **something that you said before. It sounded like you**
20 **were speculating about this, but I'm just wondering**
21 **about the basis for that -- the statement that Ms.**
22 **Estevan may have received bonuses from her employer**
23 **for saving money.**

24 **Could you say more about that?**

25 MS. PULLEN: I'm going to object to

Page 63

1 **Q. Okay. So what happened with the general**
2 **cleanliness of the kitchen? Like what -- did that**
3 **change over time or what's your recollection?**

4 A. When I was there, it was kind of like --
5 it was a work in progress. It was something that
6 had to be supervised. So what we did is I had to
7 emphasize with my staff to conduct weekly rounds so
8 that we could -- at least someone was there daily
9 throughout the week, I mean, Monday through Friday
10 at least.

11 So I had my major doing with me rounds,
12 my captain, my unit manager, my maintenance
13 supervisor, my deputy warden doing rounds -- weekly
14 rounds in the kitchen so that we had at least one
15 day out of the week someone was going through and
16 ensuring that there was cleanliness.

17 **Q. And is it fair to say that that was an**
18 **extra level of monitoring to ensure --**

19 A. Yes.

20 **Q. -- that cleanliness happens?**

21 MS. PULLEN: Object to form.

22 BY MR. ALLEN:

23 **Q. Sorry, repeat your answer.**

24 A. Yeah, I would say that was fair, yes.

25 **Q. Okay. And what would have happened in**

Page 65

1 form. Foundation.

2 THE WITNESS: Sorry, my dogs. You know
3 what, I really can't because it was speculation. I
4 don't work for Summit, so I'm not really sure how
5 that works. So I guess I could say that I misspoke.

6 BY MR. ALLEN:

7 **Q. Well, was there ever any sense from your**
8 **perspective that the attempts to save money may have**
9 **contributed to the inadequate storage practices in**
10 **the kitchen at Western?**

11 MS. PULLEN: Objection. Form.

12 Foundation.

13 MS. MOULTON: I'm going to join that
14 objection.

15 THE WITNESS: Be I don't know. I mean,
16 it could have been. It could have been just lack of
17 knowledge. I don't know. I wasn't Ms. Estevan's
18 supervisor, so I don't feel comfortable answering
19 that, but.

20 BY MR. ALLEN:

21 **Q. Did you talk with either Ms. Garcia or**
22 **Mr. Sanchez as FSSO about the cleanliness issues in**
23 **the kitchen?**

24 A. Yes. Not so much Nicolette. It was --
25 it mostly happened with Mr. Sanchez, and I required

17 (Pages 62 to 65)

Page 66

1 that he go in and inspect the kitchen weekly.

2 **Q. And tell me what else did you discuss**
3 **with them during those times that you recall?**

4 A. What else?

5 **Q. Yeah. Sorry, that's a horrible**
6 **question.**

7 **What else did you discuss with**
8 **Mr. Sanchez regarding the need to ensure clean food**
9 **practices in the kitchen at Western?**

10 MS. MOULTON: Objection to form.

11 MS. PULLEN: Join.

12 MS. MOULTON: You can answer.

13 THE WITNESS: I don't know if I remember
14 every discussion with Mr. Sanchez. I would say that
15 I don't know. I mean, I think, I mean, we talked
16 mostly about that.

17 BY MR. ALLEN:

18 **Q. And did you ever discuss with**
19 **Mr. Sanchez about Ms. Estevan's responsibility for**
20 **ensuring cleanliness in the kitchen?**

21 A. I don't recall having a specific
22 conversation with Sanchez as to her
23 responsibilities. I think we all just kind of knew
24 that the kitchen was responsible for its
25 cleanliness.

Page 68

1 **Q. Okay. How about the presence of rodents**
2 **at Western? How often did that come up in those**
3 **weekly department head meetings?**

4 A. I don't think that was a subject that
5 came up quite often, if at all.

6 **Q. So it may have never come up in those**
7 **department head meetings?**

8 A. To the best of my recollection, I don't
9 recall it being a -- an issue that stood out that
10 would -- that was ever brought up in the Monday
11 meetings.

12 **Q. Okay. Do you recall any conversations**
13 **with Deputy Warden Martinez when he was in that**
14 **position about either food sanitation practices in**
15 **the kitchen and/or the presence of rodents at**
16 **Western?**

17 MS. PULLEN: Objection to form.

18 MS. MOULTON: Join.

19 THE WITNESS: I don't recall any
20 specific conversations with Leon Martinez on the
21 kitchen.

22 BY MR. ALLEN:

23 **Q. Okay. Okay. I have to ask about this.**
24 **You know I'm going to ask about the Ultrasonic Mice**
25 **Repellers. Tell me when those were purchased and**

Page 67

1 **Q. What was your impression of the working**
2 **relationship between Mr. Sanchez and Ms. Estevan?**

3 MS. PULLEN: Objection to form.

4 THE WITNESS: I'm not sure. I never
5 really saw them interact. He didn't always do his
6 rounds at the same time I did mine.

7 BY MR. ALLEN:

8 **Q. Did you feel that they worked**
9 **effectively together?**

10 MS. PULLEN: Objection to form.

11 THE WITNESS: I don't know.

12 BY MR. ALLEN:

13 **Q. Okay. During those Monday department**
14 **head meetings, how often did the subject of the food**
15 **sanitation practices in the kitchen come up?**

16 A. I don't recall. I mean, we went through
17 a lot of stuff in our Monday meetings, you know,
18 directives from Central office, things that were
19 going around the state. I don't think that was like
20 a major subject in our Monday meetings. Did it come
21 up? It may have. I don't recall.

22 **Q. So you don't necessarily recall that it**
23 **came up or didn't come up in those department head**
24 **meetings; am I understanding that correctly?**

25 A. Correct.

Page 69

1 **how they were used at the prison.**

2 A. I don't recall when they were purchased.

3 I want to say it was probably in -- sometime in
4 2017. The Ultrasonic Mice Propellers were actually
5 recommended by the staff. A lot of people who live
6 in the area -- like I said, Grants is a very rural
7 area, and the surrounding towns around Grants are
8 very rural. A lot of the staff members said they
9 used them in their homes and they felt it worked
10 effectively.

11 And so I got with my business manager,
12 and they were -- I know that we purchased some. I
13 don't remember how many we purchased nor do I
14 remember how much they were. We put them -- we put
15 one in the kitchen. We put some in the admin areas,
16 and I -- I can't remember where else we put them.

17 **Q. Were they effective?**

18 A. As far as I know. I never got any
19 reports whether they were effective or ineffective.

20 **Q. Okay. And what about the sticky traps?**
21 **Were those effective at Western in addressing the**
22 **presence of rodents?**

23 A. They were effective as long as the
24 inmates didn't -- didn't mess with them, throw them
25 away or use them for other things. We had used the

18 (Pages 66 to 69)

Page 70

1 sticky traps when we had the male population, and it
2 was never an issue. But it had become an issue when
3 we had the women.

4 Q. I see. And just remind me, I've heard
5 this before, but what -- in what way was it an
6 issue?

7 A. It was an issue because the women were
8 heating them up in the microwave and using them to
9 remove body hair.

10 Q. Okay. And what other types of traps
11 were used to control rodents while you were at
12 Western, if any?

13 A. Those are the only two that I recall. I
14 guess that would be a question you'd need to -- have
15 to ask the FSSO.

16 Q. Okay. You mentioned earlier in our
17 discussion that inmates often proactively approached
18 you while you were doing rounds as warden. Did they
19 ever address complaints towards you at that time,
20 like sort of informal verbal complaints about
21 anything?

22 A. Yes.

23 Q. And what kinds of complaints would they
24 bring to your attention?

25 A. They might complain about their

Page 71

1 property. They're going to complain about receiving
2 a misconduct report. They would complain about
3 certain grievances. They would complain about their
4 classification levels. They would complain about
5 losing good time. They would complain about visits.
6 They might have a complaint about medical and
7 medical services. They might complain about certain
8 prescriptions that they asked for or wanted and
9 weren't getting.

10 They might complain about a certain
11 staff member. They might complain about a certain
12 sergeant, a certain lieutenant. They didn't have an
13 issue coming up to me and complaining.

14 Q. Sounds like it. Yeah, it's kind of
15 impressive. Did you -- did they ever talk to you
16 about complaints about the presence of rodents?

17 A. I don't remember specifically an inmate
18 like approaching me to talk about rodents, no. I'm
19 not saying they didn't, but I don't recall that ever
20 being like something that stood out to me.

21 Q. You don't recall any sort of direct
22 verbal communication with an inmate where they were
23 complaining about rodents?

24 A. No.

25 Q. Okay. What about -- you know, I'm going

Page 72

1 to skip around here, but looking at plaintiff's
2 Exhibit 3, you know, you know these forms.
3 (Exhibit 3 was marked for
4 identification.)

5 BY MR. ALLEN:

6 Q. Did you ever see informal complaints or,
7 you know, formal grievances from inmates about the
8 presence of rodents at Western?

9 A. No.

10 Q. And the inmates that worked in the
11 kitchen never brought this to your attention, is
12 your recollection, about the presence of rodents?

13 MS. PULLEN: Objection to form.

14 MS. MOULTON: Join.

15 THE WITNESS: I don't -- that I don't
16 recall. I mean, a lot of times when we did -- when
17 we were in the kitchen, a lot of my focus was
18 usually discussing it with Summit staff and with the
19 Summit supervisor.

20 As far as the grievance procedures go, I
21 mean, informal complaint do not come to the warden.
22 They go straight to the unit manager and are
23 supposed to be settled at the unit management level.
24 If they aren't addressed, then they become a
25 grievance. Then that goes to the grievance

Page 73

1 director. It wouldn't come to the warden's level
2 unless they filed an appeal.

3 BY MR. ALLEN:

4 Q. That brings up a related question. If
5 there's enough -- a large enough number of informal
6 complaints or grievances about a single subject,
7 does that ever get brought up to the deputy warden
8 or warden's attention in your experience?

9 A. It should have because the -- the
10 grievance officer reports to the deputy warden. So
11 I would imagine that it would have gone to the
12 deputy warden.

13 Q. And if there were a large enough number
14 of informal complaints or grievances about a single
15 subject, did that ever get discussed at one of those
16 department head meetings?

17 MS. MOULTON: Objection to form.

18 THE WITNESS: I would think that if
19 there was that many complaints, then I would -- it
20 would probably get discussed at a department head
21 meeting.

22 This particular exhibit, though, is
23 dated 2020, so that would have been when I was no
24 longer there.

25 BY MR. ALLEN:

19 (Pages 70 to 73)

<p style="text-align: right;">Page 74</p> <p>1 Q. Correct. Yeah, I just bring it up as an</p> <p>2 example. Do you remember Anamarie Apodaca when you</p> <p>3 were -- from the time you were a warden, the inmate?</p> <p>4 A. Snooky?</p> <p>5 Q. Snooky.</p> <p>6 A. Yes.</p> <p>7 Q. Okay. What do you remember about</p> <p>8 Snooky?</p> <p>9 A. I don't -- nothing in particular. I</p> <p>10 mean, Snooky, she's -- she likes to get involved in</p> <p>11 a lot of things. She likes to keep herself busy.</p> <p>12 She's very vocal about her grievances and doesn't</p> <p>13 have a problem telling people what she thinks.</p> <p>14 Q. Did she ever approach you on your rounds</p> <p>15 to talk about anything?</p> <p>16 MS. MOULTON: Objection to form.</p> <p>17 THE WITNESS: I'm sure she did.</p> <p>18 BY MR. ALLEN:</p> <p>19 Q. And she never brought up presence of</p> <p>20 rodents with you at Western during those informal</p> <p>21 discussions that you can recall?</p> <p>22 A. No, not that I can recall.</p> <p>23 Q. All right. How about our plaintiffs,</p> <p>24 actually, since we're on that subject? Do you</p> <p>25 remember Suzie Zapata?</p>	<p style="text-align: right;">Page 76</p> <p>1 all the specifics of every conversation.</p> <p>2 Q. Um-h'm. Okay. And what about</p> <p>3 Mr. Almanza? We talked about him earlier. Were</p> <p>4 there things that came up specifically with regard</p> <p>5 to physical plant maintenance that you discussed</p> <p>6 with Mr. Almanza and how that intersected with</p> <p>7 rodents?</p> <p>8 MS. MOULTON: Objection to form.</p> <p>9 You can answer.</p> <p>10 THE WITNESS: With Mr. Almanza, let's</p> <p>11 see. What I remember with Mr. Almanza was the --</p> <p>12 the double doors that enter into the kitchen, when</p> <p>13 you pass those double doors, you're outside. There</p> <p>14 was a small threshold that -- that was exposed, and</p> <p>15 I know that we replaced that threshold.</p> <p>16 I don't know what you call it. It's</p> <p>17 like a -- you know, so stuff doesn't get in. I</p> <p>18 think there were certain holes. There were certain</p> <p>19 areas in the kitchen that needed replacing. Chris</p> <p>20 and his team would be the one to -- to repair those.</p> <p>21 I also had -- Chris's office was right</p> <p>22 next door to the kitchen, and maintenance is right</p> <p>23 next door. So as a supervisor and as a manager, I</p> <p>24 asked him, because he was such in close proximity to</p> <p>25 the kitchen, to assist us in doing the weekly</p>
<p style="text-align: right;">Page 75</p> <p>1 A. No.</p> <p>2 Q. And how about the other plaintiff,</p> <p>3 Monica Garcia, do you remember her at all?</p> <p>4 A. No.</p> <p>5 Q. Okay. I just wanted to check. Let me</p> <p>6 go back here and make sure I covered everything in</p> <p>7 this section.</p> <p>8 Okay. Let's go down to page 11. And</p> <p>9 this interrogatory number 4 is asking about any</p> <p>10 conversations or communications you had regarding</p> <p>11 the presence of rodents at Western.</p> <p>12 We've talked about some of these. It</p> <p>13 sounds like you remember having conversations with</p> <p>14 -- with Leon Martinez about that. Could you tell me</p> <p>15 like what were those conversations, the specifics?</p> <p>16 Like what did you talk to Mr. Martinez about?</p> <p>17 A. I don't recall any like -- what the</p> <p>18 specifics were other than when Leon became deputy</p> <p>19 warden that, you know, we would -- that I was</p> <p>20 expecting him to do weekly rounds in the kitchen to</p> <p>21 inspect for cleanliness.</p> <p>22 Q. Okay.</p> <p>23 A. Actual specific -- I mean, Leon's office</p> <p>24 was right next door to mine, so I mean, we had a lot</p> <p>25 of conversations. I don't know if I can remember</p>	<p style="text-align: right;">Page 77</p> <p>1 rounds. So he would also do weekly rounds in the</p> <p>2 kitchen.</p> <p>3 BY MR. ALLEN:</p> <p>4 Q. I see. And you mentioned the holes in</p> <p>5 and around the kitchen. In what way was that</p> <p>6 related to the presence of rodents?</p> <p>7 A. It could have been areas that rodents</p> <p>8 could be coming in. I mean, the -- the prison, it's</p> <p>9 an old facility, and so there's -- I mean, there was</p> <p>10 a lot of things that Chris had to fix.</p> <p>11 I know some of the holes, I think he</p> <p>12 filled them up with concrete. Specifically which</p> <p>13 holes and where, I think you'd need to ask Chris</p> <p>14 Almanza.</p> <p>15 Q. Do you recall where -- any discussion</p> <p>16 about where the rodents were coming from?</p> <p>17 A. I know we discussed the possibility of</p> <p>18 coming in through the doors, which is why we put the</p> <p>19 threshold in. I know there was speculation from</p> <p>20 Berleen that they were coming in from vents. How</p> <p>21 true that they were coming in through the vents I'm</p> <p>22 not sure. And I know that that was one area that</p> <p>23 Chris Almanza had been working on.</p> <p>24 Q. Did anyone ever discuss with you the</p> <p>25 possibility that the rodents were breeding in the</p>

Page 78

1 walls in the kitchen?

2 A. No.

3 Q. You never had a discussion with anyone

4 about that?

5 A. Not that I recall. Breeding in the

6 walls, no.

7 Q. Breeding, right? That there were rodent

8 nests in the walls and that's where the rodents were

9 coming from?

10 A. I do not recall a conversation about

11 that, no.

12 Q. Okay. When you mentioned they were

13 potentially coming down vents, was there a specific

14 vent in the kitchen that they -- the rodents were

15 regularly seen coming and going from?

16 MS. MOULTON: Objection to form.

17 THE WITNESS: I don't recall specific

18 vents where people saw them coming and going. I

19 remember the discussion about the possibility of

20 them coming in through the vents as speculation. I

21 don't recall anyone saying that they saw them coming

22 and going.

23 BY MR. ALLEN:

24 Q. Okay. When you were making your weekly

25 rounds, did you interact with inmates in the

Page 79

1 kitchen?

2 A. Sometimes. Usually, they were busy

3 working, but, yeah.

4 Q. Did you ever have a chance to talk to

5 them about the cleanliness of the kitchen, for

6 example, or the presence of rodents in the kitchen?

7 MS. PULLEN: Objection to form.

8 THE WITNESS: Not that I can recall, no.

9 BY MR. ALLEN:

10 Q. Do you ever recall any inmates raising

11 concerns about the presence of rodents when it came

12 to food service? And what I'm specifically

13 wondering is inmates that worked in the kitchen, did

14 any of them raise concerns for you about the

15 presence of rodents and its impact on food service?

16 A. No. I don't recall any conversations

17 with inmates about rodents and its impact on food

18 service. No.

19 Q. Okay.

20 MR. ALLEN: I am wondering -- looking at

21 the clock how -- if now is a good time to take maybe

22 a half hour break. Does that work for folks? If we

23 could come back at maybe 1:05, and we could continue

24 from there.

25 MS. MOULTON: Sounds good to me.

Page 80

1 MS. PULLEN: Yep.

2 MR. ALLEN: Okay. See you all then.

3 (A luncheon recess was taken at

4 12:33 P.M.)

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Page 81

1 ALBUQUERQUE, NEW MEXICO, MONDAY, MARCH 21, 2022

2 AFTER LUNCH

3 -ooo-

4

5 EXAMINATION (Resumed)

6 BY MR. ALLEN:

7 Q. Let's see. I wanted to ask you about

8 the pest control company that was doing some work at

9 Western. Are you familiar with PDI?

10 A. No.

11 Q. Did you ever talk with Mr. Sanchez about

12 PDI?

13 A. No.

14 Q. Do you know if they were doing pest

15 control work while you were a warden at Western?

16 A. Probably. I don't recall who the

17 company was that was doing the pest control, to be

18 honest with you.

19 Q. Do you recall that there was a company

20 doing pest control while you were warden?

21 A. Yes.

22 Q. Okay. Did you ever have a conversation

23 with Mr. Sanchez or one of your deputy wardens about

24 the quality of the pest control services being

25 offered by that company?